REMARKS

This paper responds to the office action mailed October 21, 2003 ("the office action"). Claims 6-8, 16 and 17 have been cancelled, and claims 19 and 20 have been added herein. Hence, claims 18-20 are currently pending. Applicants respectfully request reconsideration of the present application in light of the following remarks.

Claim Rejections – 35 USC § 112

Section 2 of the office action rejected claims 6-8 under 35 USC 112. These claims have been cancelled, rendering the rejections thereof moot.

Claim Rejections – 35 USC § 102

Sections 3-4 of the office action rejected claims 6, 7 and 16 under 35 USC 102. These claims have been cancelled, rendering the rejections thereof moot.

Claim Rejections – 35 USC § 103

Sections 5-8 of the office action rejected claims 8, 17 and 18 under 35 USC 103. Claims 8 and 17, rejected in section 7 of the office action, have been cancelled, rendering the rejections thereof moot.

Claim 18 was rejected in section 8 of the office action under 35 USC 103(a) as allegedly being unpatentable over either U.S. Patent Nos. 5,482,190 or 5,746,359, both issued to Stanek et al, taken together with U.S. Patent Nos. 5,839,614 and 6,079,823 to Brown and Droege, respectively. Applicants respectfully traverse this rejection.

It is well established that, among other things, all the claim limitations must be taught or suggested by the prior art to establish *prima facie* obviousness. MPEP 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Further, MPEP 2143.01 notes that there must be motivation to modify a reference. More specifically, if the modification changes the principle of operation of the prior art device being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. (citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

The office action admits that the Stanek references fail to disclose or suggest a valve as recited in the present claims, but alleges that it would have been obvious to substitute either of the valves disclosed in Brown or Droege. The Brown and Droege references are addressed in turn below.

The valve illustrated and described at the passages cited in the office action operates in an entirely different manner than the claimed device. As shown in Figures 1 and 2 of Brown, the valve 3 is in the closed position, with the valve head 5 and discharge orifice extending up into the container 2. The process of opening the valve is shown in Figures 6-13 of Brown, and described at col. 9, l. 60 – col. 12, l. 22. Pressure is applied to the valve to invert it from the position shown in Figure 2 to the open position shown in Figure 3. The transition from the closed position to the open position is illustrated in Figures 6-13. Pressure applied to the valve from above the valve (as viewed in the figures of Brown), causes the connector sleeve 7 to roll over on itself until the valve is inverted an opens.

There is nothing in the cited portions of Brown that indicates the valve could be operated by a force exerted *upwards* against the valve by a protruding member. In the closed position, the "discharge orifice 6 will remain securely closed, even under the hydraulic head pressure applied

thereto by the fluid product 18 when the container 2 is completely full." Col. 10, ll. 1-4. In the open position, it seems that applying pressure against the valve from outside the valve would cause it to invert back to the closed position.

In any event, attempting to open the valve disclosed in Brown by applying pressure against the valve from outside the container completely changes the principle of operation of the valve shown in Brown. Therefore, there is no motivation to modify the device as suggested in the office action.

Regarding Droege, the combination of Droege and the Stanek references fails to disclose each element of the claim. Claim 18 includes, "the barrier being sufficiently resilient to prevent the liquid flow through the slit from the container under the weight of water inside the bottle...." The device disclosed in Droege uses a piercing member to break through an elastomeric diaphragm to release ink from a bottle. There is nothing in the cited portions of Droege that indicates that, once pierced, the diaphragm could prevent liquid flow from the ink container.

Droege teaches the diaphragm having "an optional, pre-formed slit 20 therein. The slit 20 is preferably not fully through the thickness of the diaphragm, but instead is a line (area) of weakness which will open or tear upon installation of the bottle...." Col. 4, ll. 42-47. Thus, Droege appears to teach away from the claimed device, in that the slit does not extend through the thickness of the diaphragm, in this manner preventing flow from the bottle. In comparison, the claimed device includes "a slit through the thickness," and fluid is retained in the bottle by the resiliency of the barrier.

Thus, the combination of Brown and Droege with the Stanek references fails to render claim 18 obvious.

New claims

New claims 19 and 20 have been added herein. These claims depend from claim 18 and are thus believed to be proper for allowance. No new matter has been introduced via the addition of claims 19 and 20.

Conclusion

The Examiner is invited to contact the undersigned attorney at 952.474.3701 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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